



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
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 First District, San Francisco

SEN. GEORGE RUNNER (RET.)
 Second District, Lancaster

MICHELLE STEEL
 Third District, Orange County

JEROME E. HORTON
 Fourth District, Los Angeles

JOHN CHIANG
 State Controller

CYNTHIA BRIDGES
 Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
March 12-13, 2013

PRELIMINARY RECORD OF BOARD ACTIONS

Tuesday, March 12, 2013

The following is a preliminary record of Board actions taken at the March 12-13, 2013 Sacramento Board Meeting. This is not an official record and is subject to correction or modification. The official record of the Board's actions is the minutes of the Board, which will be adopted at a subsequent meeting.

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Board Committee Meetings— Please see Page 10, O., Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

Board Meeting

A. Homeowner and Renter Property Tax Assistance Appeals Hearings
 There are no items for this matter.

B. Corporate Franchise and Personal Income Tax Appeals Hearing

B1. ~~Doris Hsieh, 586283~~

C. Sales and Use Tax Appeals Hearings

C1. La Torta Gorda, Inc., 572008 (BH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied. Approved staff's revised recommendation.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

~~C2. Andy's BP, Inc., 546362 (BH)~~

~~C3. Rogelio Ortiz, 489267 (KH)~~

C4. Nabil Abdo M. Abdulla and Taheri M. Aldafari, 569351 (CH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

There are no items for the following matters:

- D. Special Taxes Appeals Hearings
- E. Property Tax Appeals Hearings
- F. Public Hearings

G. Tax Program Nonappearance Matters – Consent

G1. Legal Appeals Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Hearing Notices Sent – No Response
 1. Ahmed Mohammed Obaid, 559970 (CH)
 2. Steve's Place, Inc., 560567 (KH)
 3. Suhail Aref Abdelhalim, 478994 (BH)
 4. Victor K. Husary, 558936 (CH)

G2. Franchise and Income Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

➤ Hearing Notices Sent – No Response

1. Erik L. Hayes, 606496
2. Peter T. Horwood, 601450
3. Richard Kuhle and Shelley Kuhle, 439454
4. John Markovich, 606129
5. Robert S. Marmor and Carol A. Marmor, 608840
6. Steven Olmos, 600499

➤ Decisions

7. Arthur C. Gustafson, 571611
8. Gongjian Hu, 593556
9. Anthony D. Huerta and Carmen Huerta, 573108
10. Richard M. Kerbel, 560503
11. Jimmy L. Miller, 550085
12. Yvette Lang, 560276

G3. Homeowner and Renter Property Tax Assistance Matters

There are no items for this matter.

G4. Sales and Use Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations. No final determination on sub-item 4.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-item 5.

➤ Redeterminations

1. Garfield Beach CVS, LLC, 589637 (OH)
2. Robert D. Tassone, 547499 (OH)

➤ Relief of Penalty/Interest

3. The Vons Companies, Inc., 692601 (OH)

➤ Denials of Claims for Refund

4. ~~Mitsubishi Power Systems Americas, Inc., 594638 (OH)~~
5. HSBC Card Services, Inc., 574503 (OH)

G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton Ms. Steel Mr. Runner Ms. Yee Mr. Chiang/ Ms. Mandel	Yes Yes Yes Yes Yes – except not participating in sub-items 6, 7, 9, 10, and 11.

➤ Credits and Cancellations

1. Recomm Wireless, Inc., 692569 (AC)
2. Trinity Oil Company, 691651 (FH)
3. Trinity Oil Company, 691653 (FH)

➤ Refunds

4. Hermes-Beverly Hills, 675584 (OH)
5. Eclipse Advertising, Inc., 495267 (AC)
6. BP Products North America, Inc., 572762 (OH)
7. ABC, Inc., 683881 (OH)
8. Painters Unlimited CA, Inc., 602553 (OH)
9. HSBC Card Services, Inc., 574503 (OH)
10. General Electric International, Inc., 546753 (OH)
11. BP West Coast Products, LLC, 572758 (OH)

There are no items for the following matters:

- G6. Special Taxes Matters
 G7. Special Taxes Matters – Credits, Cancellations, and Refunds
 G8. Property Tax Matters
 G9. Cigarette License Fee Matters
 G10. Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory**H1. Legal Appeals Matters**

➤ Hearing Notices Sent – No Response

- 1a. Annand Nadir Sliuman, 475771 (FH)
- 1b. Saad Dawood Pattah, 479619 (FH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petitions denied.	Mr. Horton Ms. Steel Mr. Runner Ms. Yee Mr. Chiang/ Ms. Mandel	Yes Yes Yes Yes Yes

- Case Heard Not Decided
- 2. Union Outlet, Inc., 547465 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition partially granted/denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Petition for Rehearing
- 3. Gateway Auto Center, Inc., 437262 (AS)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition for rehearing denied.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

H2. Franchise and Income Tax Matters

- Decision
- 1. Pharmagenesis, Inc., 550168

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

H3. Homeowner and Renter Property Tax Assistance Matters

There are no items for this matter.

H4. Sales and Use Taxes Matters

- Denial of Claim for Refund
- 1. HSBC Card Services, Inc., 504741 (OH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Not Participating

H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

➤ Refund

1. HSBC Card Services, Inc., 504741 (OH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claim granted.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Not Participating

There are no items for the following matters:

H6. Special Taxes Matters

H7. Special Taxes Matters – Credits, Cancellations, and Refunds

H8. Property Tax Matters

H9. Cigarette License Fee Matters

H10. Legal Appeals Property Tax Matters

I. Tax Program Nonappearance Matters

I1. Property Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Not Participating

➤ Audits

1. Trans Bay Cable, LLC (119) 'CF'

2. Southwest Transmission Cooperative, Inc. (193) 'CF'

3. NTT America, Inc. (7732) 'CF'

4. NextG Networks of California, Inc. (7982) 'CF'

5. Sonic Telecom, LLC (8081) 'CF'

➤ Unitary Land Escaped Assessments

6. Los Angeles SMSA Ltd. (2532) 'CF'

7. T-Mobile West Corporation (2748) 'CF'

I2. Offer in Compromise Recommendations

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

1. Phu Dinh Do
2. Soi Sang Yong

I3. Local Tax Reallocation Matters
There are no items for this matter.**Chief Counsel Matters**

- J. Rulemaking
This item is scheduled for Wednesday, March 13, 2013.

There are no items for the following matters:

- K. Business Taxes
L. Property Taxes
M. Other Chief Counsel Matters

Administrative Session

The following items are scheduled for Wednesday, March 13, 2013.

- N. Consent Agenda
O. Adoption of Board Committee Reports and Approval of Committee Actions
P. Other Administrative Matters

Q. Closed Session



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Wednesday, March 13, 2013

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Board Meeting

Special Presentations

- 2011/2012 Employee Recognition Award Program
- Report from Chris Hill, Principal Program Budget Analyst, Department of Finance (DOF)

C. Sales and Use Tax Appeals Hearings

~~C5. Sweetwater Restaurants, LLC, 491317 (DF)~~

~~C6. Mohamed M. Alhaj, 519427 (BH)~~

C7. Ultimodule, Inc., 473612 (GH) - Waived Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied. Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

~~C8. Amar Abdo Alamy, 513144 (DF)~~

C9. Mobile Telesys, Inc., 486216 (FH) - Waived Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
Approved staff recommendation.	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
The Board ordered that the matter not be held in abeyance pending adoption of a summary decision for publication.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

~~C10. Zap, 496989 (JH)~~

C11. The Unlimited Store, Inc., 522301 (KH) - Waived Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
Approved staff recommendation.	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

Chief Counsel Matters**J. Rulemaking****Section 100 Changes**

- J1. Regulations 1532, *Teleproduction or Other Postproduction Service Equipment*; 1533.1, *Farm Equipment and Machinery*; 1533.2, *Diesel Fuel Used in Farming Activities or Food Processing*; 1534, *Timber Harvesting Equipment and Machinery*; 1535, *Racehorse Breeding Stock*; and, 1598, *Motor Vehicle and Aircraft Fuels*

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

Administrative Session**N. Consent Agenda**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- N1. Retirement Resolutions
- Cindi J. Bonilla-Ernst
 - Kathye L. Jimenez
 - Ronald Lee
 - Phil Shipley (Amendment)
- N2. Approval of Board Meeting Minutes
- August 21-22, 2012
- N3. 2013 Timber Advisory Committee Membership

O. Adoption of Board Committee Reports and Approval of Committee Actions

- O1. Legislative Committee – February 26, 2013

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein. For details see: http://www.boe.ca.gov/legdiv/legmeetings13.htm	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

O2. Legislative Committee – March 12, 2013

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein.	Mr. Horton	Yes
For details see:	Ms. Steel	Yes
http://www.boe.ca.gov/legdiv/legmeetings13.htm	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

O3. Business Taxes Committee – March 12, 2013

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein.	Mr. Horton	Yes
For details see:	Ms. Steel	Yes
http://www.boe.ca.gov/meetings/btc2013.htm	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

O4. Property Tax Committee – March 12, 2013

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein.	Mr. Horton	Yes
For details see:	Ms. Steel	Yes
http://www.boe.ca.gov/proptaxes/pctcwplan13.htm	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

P. Other Administrative Matters

P1. Executive Director's Report

1. CROS Project Update and Actions

There are no items for the following matters:

P2. Chief Counsel Report

P3. Sales and Use Tax Deputy Director's Report

P4. Property and Special Taxes Deputy Director's Report

1. Fire Prevention Fee Program Update
2. Federation of Tax Administrators (FTA) Tobacco Section Resolution

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

There are no items for the following matters:

- P5. Administration Deputy Director's Report
P6. Technology Deputy Director's Report
P7. External Affairs Deputy Director's Report